

United States District Court		District CENTRAL DISTRICT OF ILLINOIS
Name <b>Todd Kegel</b>	Prisoner No. <b>R-14664</b>	Case No.
Place of Confinement Graham Correctional Center, P.O. Box 499, Hillsboro, Illinois 62049		
Name of Petitioner (include name under which convicted) <b>Todd Kegel</b>		Name of Respondent (authorized person having custody of petitioner) v. <b>Illinois Department Of Corrections</b> <b>Andrew K. Ott-Warden, CAO</b>
The Attorney General of the State of: <b>Illinois</b>		
<b>PETITION</b>		
1. Name and location of court which entered the judgment <del>of conviction</del> under attack <u>Winnebago County, in Rockford, Illinois 61101.</u>		<u>Circuit Court Of</u> <b>FILED</b>
2. Date of judgment <del>of conviction</del> <u>May 27, 2005</u>		<u>APR - 7 2008</u> <i>acw</i> <u>APR - 7 2008</u>
3. Length of sentence <u>N/A</u>		<b>MICHAEL W. DOBBINS</b> <b>CLERK, U.S. DISTRICT COURT</b>
4. Nature of <del>case</del> involved (all counts) <u>This is a Case involving Parental Rights and the Petitioner being declared an "Unfit Parent."</u>		
<hr/> <hr/>		
5. What was your plea? (Check one) (a) Not guilty <input type="checkbox"/> <b>(Not Applicable:)</b> (b) Guilty <input type="checkbox"/> (c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details: <u>N/A</u>		
<hr/> <hr/>		
6. If you pleaded not guilty, what kind of trial did you have? (Check one) (a) Jury <input type="checkbox"/> (b) Judge only <input type="checkbox"/> <b>(Not Applicable:)</b>		
7. Did you testify at the <del>trial</del> <b>hearing?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
8. Did you appeal from the judgment of conviction? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>08CV50056</b> <b>JUDGE KAPALA</b> <b>MAG.JUDGE MAHONEY</b>		

9. If you did appeal, answer the following:

(a) Name of court The Appellate Court Of Illinois, Second Judicial District

(b) Result The Judgement Of The Circuit Court was AFFIRMED:

(c) Date of result and citation, if known March 17, 2006. The Judgement was not cited:

(d) Grounds raised \_\_\_\_\_

(See Attached Sheet:)

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court Illinois Supreme Court

(2) Result The Supreme Court refused to hear the Appeal.

(3) Date of result and citation, if known April 16, 2007. The Case was not cited.

(4) Grounds raised \_\_\_\_\_

(See Attached Sheet:)

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal: **Petitioner did not file a Writ Of Certiorari to the U.S. Supreme Court:**

(1) Name of court \_\_\_\_\_

(2) Result \_\_\_\_\_

(3) Date of result and citation, if known \_\_\_\_\_

(4) Grounds raised \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes  No

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

GROUNDS RAISED IN BOTH THE APPELLATE COURT  
 AND IN THE ILLINOIS SUPREME COURT PURSUANT  
 TO Page 3, Sections 9(d) and 9(e):

1. WHETHER THE TRIAL COURT MANIFESTLY ERRED AND ABUSED ITS DISCRETION WHEN IT ALLOWED MR. KEGEL TO PROCEED WITHOUT COUNSEL MID-WAY THROUGH THE UNFITNESS HEARING WITHOUT A DETERMINATION OF WHETHER MR. KEGEL KNOWINGLY AND INTELLIGENTLY WAIVED HIS STATUTORY RIGHT TO COUNSEL?
2. WHETHER THE TRIAL COURT'S FINDING OF UNFITNESS BASED ON SECTION 1(D)(r) OF 750 ILCS 50/1, IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE, AND SHOULD BE REVERSED?
3. WHETHER THE TRIAL COURT'S FINDING OF UNFITNESS PURSUANT TO SECTION 1(D)(s) OF 750 ILCS 50/1, IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE, AND SHOULD BE REVERSED?
4. WHETHER RESPONDENT FATHER'S RIGHTS TO DUE PROCESS WAS VIOLATED WHEN THE TRIAL COURT ALLOWED HIM TO REMAIN SHACKLED WHILE ATTEMPTING TO REPRESENT HIMSELF?
5. WHETHER RESPONDENT FATHER'S RIGHTS TO DUE PROCESS AND EQUAL PROTECTION WAS VIOLATED WHEN THE TRIAL COURT PROCEEDED WITH THE SHELTER CARE HEARING SECTION OF THE PETITION TO TERMINATE HIS PARENTAL RIGHTS WITHOUT HIS PRESENCE?
6. WHETHER THE CIRCUIT COURT ERRED IN DENYING MOTION FOR STAY OF JUDGEMENT PURSUANT TO ILLINOIS SUPREME COURT RULE 305?

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes  No

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_ **N/A**

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes  No  **(Not Applicable:)**

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes  No  **(Not Applicable:)**  
(2) Second petition, etc. Yes  No

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

**N/A**

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: (See Attached Sheets Setting Out Grounds One to Seven and supporting facts for Reversal Of The Appellate Court Decision:)

Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

\_\_\_\_\_

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B. Ground two: \_\_\_\_\_

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Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

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\_\_\_\_\_

**Ground One:** The Appellate Courts Ruling Should Be Reversed Because The Circuit Court Erred And Abused Its Discretion Where The Appellate Courts Decision On Allowing Mr. Kegel To Proceed Without Counsel Was In Violation Of U.S. Supreme Court Case Law And In Violation Of The Statutes In Civil Proceedings.

**Supporting Facts:** That before a person in a Juvenile Adjudication is or has been denied to represent himself after the court has removed appointed counsel, that a hearing must be convened to determine if the Respondent Father knowingly and intelligently waived his statutory rights to counsel:

**Ground Two:** The Appellate Courts Ruling Should Be Reversed Because The State Failed To Allege Respondent's repeated incarcerations Prevented Him From Discharging His Parental Responsibilities.

**Supporting Facts:** The element of section 1(d)(r) requires the State to prove that prior RF's incarceration he had little or no contact with Amber K., or provided little or no support for Amber K. was not, and could not be proven by the State, because prior to RF's incarceration Amber K had not been born:

**Ground Three:** The Appellate Courts Ruling Should Be Reversed Because Under Section 1(D)(s) Of The Adoption Act Is Applied As Written, It Cannot Serve As The Basis For Terminating RF's Parental Rights.

**Supporting Facts:** Is that the termination hearing was on hold until a ruling was rendered in RF's criminal matter, that the Circuit Judge informed the RF's Attorney (R. Wilt) that he (Judge) had already determined to terminate RF's parental rights which the judge relayed to Judge Rosemary in open court in RF's Criminal Proceedings:

**Ground Four:** The Appellate Courts Ruling Should Be Reversed Because The RF Had To Remain In Shackles and That The Boose Standard Should Have Been Considered.

**Supporting Facts:** That RF's remaining in shackles hampered his ability to represent himself where RF attempted to present documents to the court and the court accused RF of trying to disrupt the proceedings, and threatened RF with contempt of court.

**Ground Five:** The Appellate Court's Ruling Should Be Reversed Because Illinois Law provides that RF has the Right To Be Present During Proceedings Under The Juvenile Court Act.

**Supporting Facts:** During the Shelter Care Hearing held on October 27, 2004, RF's right to be present at that hearing was violated by the Circuit Court and was up-held by the Appellate Court in violation of the Juvenile Court Act:

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**Ground Six:** The Appellate Court's Decision Should Be Reversed Because The Ruling To Uphold The Circuit Court's Ruling To Deny RF's Request For A Stay Of Judgement Violated Illinois U.S. Supreme Court Rulings and Rules.

**Supporting Facts:** That the Illinois Supreme Court Rules, Rule 305(e)(1) and (e)(2) allows for a RF to stay for 60 days the Order Of Termination of Parental Rights until the appeal is finalized or the stay is lifted. All Rules Of The Illinois Supreme Court must be adhered to by the Illinois Courts.

C. Ground three: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

D. Ground four: \_\_\_\_\_

Supporting FACTS (state briefly without citing cases or law) \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

All Grounds have been presented to the State Appellate Court and to the Illinois Supreme Court.

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes  No

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing In the Proceedings had in the Circuit Court, Appellate Court and Illinois Supreme Court Petitioner represented himself.

(b) At arraignment and plea \_\_\_\_\_.

(c) At trial \_\_\_\_\_  
\_\_\_\_\_  
  
(d) At sentencing \_\_\_\_\_  
\_\_\_\_\_  
  
(e) On appeal \_\_\_\_\_  
\_\_\_\_\_  
  
(f) In any post-conviction proceeding \_\_\_\_\_  
\_\_\_\_\_  
  
(g) On appeal from any adverse ruling in a post-conviction proceeding \_\_\_\_\_  
\_\_\_\_\_

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes  No  (**Not Applicable:**)

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes  No  (**Not Applicable:**)

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_  
\_\_\_\_\_  
  
(b) Give date and length of the above sentence: \_\_\_\_\_  
\_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

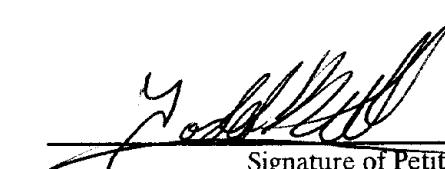
Yes  No

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

03/28/08  
(date)

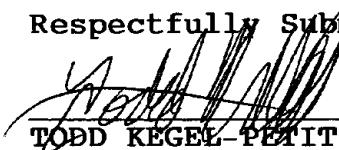
  
\_\_\_\_\_  
Signature of Petitioner

RELIEF REQUESTED:

1. Petitioner requests that this U.S. District Court grant him a 60 day Extension Of Time so that Petitioner Kegel can appropriately research and put together an "MEMORANDUM OF LAW" In Support of his Ground's For Relief under Habeas Corpus Proceedings. That Petitioner is hampered here at the The Graham Correctional Center because the Law Library as of this writing is only operational one day each week for the Petitioner to do legal research, and, that a 60 day Extension Of Time to submit an Memorandum Of Law is not unreasonable because the Graham Correctional Center is in the process of hiring a Full-Tim Librarian to operate the Law Library from 12:30 p.m. to 8:30 p.m. Monday thru Friday begining in or after the Month of April.

That to adequately present the proceedings and issue's contained in the Petition For Habeas Corpus Petitioner must have enough time to present his facts and to have enough time to respond to any responses against said Petition For Habeas Corpus Relief.

Respectfully Submitted,

  
TODD KEGEL - PETITIONER, PRO-SE

DATED: 03/28, 2008.

DECLARATION  
NOTICE OF FILING & PROOF OF SERVICE

I, TODD KEGEL, have prepared this Declaration in accordance with the provisions of FRAP 25(a)(2)(C) [Inmate Filing], FRAP 25(d) [Proof of Service], 28 U.S.C. §1746 [Unsworn Declarations Under Penalty of Perjury], and 18 U.S.C. §1621 [Perjury Generally].

NOTICE OF FILING is hereby given to the following parties:

TO: Clerk of the Court <u>U.S. DISTRICT COURT</u> <u>EASTERN DIVISION</u> <u>219 S. DEARBORN ST. 20th fl.</u> <u>CHICAGO, ILLINOIS</u> <u>60604</u>	TO: Lisa Madigan <u>Illinois Attorney General</u> <u>500 S. 2nd St.</u> <u>Springfield, Illinois 62706</u>
TO: Andrew K. Ott <u>Warden</u> <u>Graham Correctional Center</u> <u>P.O. Box 499</u> <u>Hillsboro, Illinois</u> <u>62049</u>	TO: _____ _____ _____ _____ _____

PLEASE TAKE NOTICE that on the date shown below I have filed the original and copies of the documents listed hereafter with the above Court, and served one copy on the parties (or counsel) at their respective addresses listed above. The documents mailed are as follows:

1. Petition For Writ Of Habeas Corpus By A Person In State Custody
2. Notice Of Filing & Proof Of Service
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

PROOF OF SERVICE

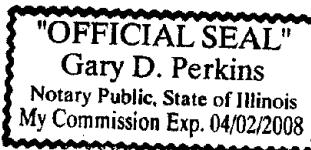
Service was accomplished by placing the above documents in envelopes addressed as shown herein, and then placing said envelopes in the U.S. Mail service at the Graham Correctional Center, Hillsboro, IL, 62049. An authorization conforming to Illinois Department of Corrections regulations for the pre-payment of first-class postage was attached to the aforesaid legal envelopes. Said envelopes and the authorization were deposited in the institution's mailing system for outgoing legal mail on the 27th day of March, 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Subscribed and sworn to before me  
this 28th day of March 2008

*Gary D. Perkins*

*/s/*  
TODD KEGEL  
Box 500, Reg. No. R-14664  
Graham Correctional Center  
Hillsboro, IL 62049



**08C50056**

**RECEIVED**

APR - 7 2008

POST MARKED envelope for initiating document.

**MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT**

**JUDGE KAPALA**

**MAGISTRATE JUDGE MAHONEY**

Legal Mail

62049  
Kase 1R14664  
Box 499  
U.S. Post Office  
62049

To: Clerk of Court

U.S. District Court

Eastern Division

219 S. Dearborn St

RECEIVED  
APR 11 2008

CLERK'S OFFICE  
U.S. DISTRICT COURT

JUDGE KAPALA

Chicago  
60604

MAGISTRATE JUDGE MAHONEY

THIS CORRESPONDENCE  
IS FROM AN INMATE  
THE ILLINOIS  
OF CORRECTION

